

REPUBLIC OF SOUTH AFRICA

DEEDS REGISTRIES AMENDMENT BILL

*(As introduced in the National Assembly as a section 75 Bill; explanatory summary of
Bill published in Government Gazette No. of)
(The English text is the official text of the Bill)*

(MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT)

[B — 2022]

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Deeds Registries Act, 1937, so as to provide for the appointment of a registrar of deeds, deputy registrar of deeds and assistant registrar of deeds in terms of the provisions of the Public Service Act, 1994; to further regulate the qualification requirements of a registrar of deeds, deputy registrar of deeds and assistant registrar of deeds; to provide for the appointment of the chief registrar of deeds; to provide for the responsibilities and duties of the chief registrar of deeds; to provide for the recordal of land tenure rights lawfully issued by Government or any other competent authority; to further provide for the registration of waivers of preference in respect of registered real rights in favour of leases; to delete reference to the registration of copies of powers of attorney in another deeds registry; to provide for the inspection of records and the supply of information by the chief registrar of deeds; to further regulate the membership, duties, composition, voting powers and remuneration of members of the deeds registries regulations board; to provide for the Minister to make regulations in respect of this Act and the Electronic Deeds Registration Systems Act, 2019; to provide for the Minister to make regulations in respect of the collection of personal information relating to race, gender, citizenship and nationality for statistical and land audit purposes; to further regulate the

registration of State land; to further regulate the issuing of certificates of registered title of undivided shares in land; to further regulate the periods for the registration of notarial bonds in more than one deeds registry; to provide for a penalty provision in respect of *mala fide* acts or omissions by a registrar or official in relation to their duties and for other persons that are part of a collusion; to provide for a penalty provision in respect of the unauthorised preparation, execution and attestation of deeds and documents; to insert a definition of ‘*attorney*’; to provide that an attorney, conveyancer and notary in the employ of the Department of Agriculture, Land Reform and Rural Development may perform the duties of an attorney, conveyancer and notary in respect of transactions relating to State Land; to insert and amend certain definitions; to provide for the amendment of the Electronic Deeds Registration Systems Act, 2019, to the extent set out in the Schedule; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 2 of Act 47 of 1937, as amended by section 1 of Act 43 of 1957, section 1 of Act 43 of 1962, section 1 of Act 87 of 1965, section 2 of Act 61 of 1969, section 2 of Act 3 of 1972, section 7 of Act 62 of 1973, section 2 of Act 27 of 1982, section 2 of Act 62 of 1984, section 1 of Act 14 of 1993, section 10 of Act 11 of 1996, Proclamation R9 of 31 January 1997, section 35 of Act 47 of 1997, section 1 of Act 93 of 1998, section 1 of Act 12 of 2010 and section 1 of Act 4 of 2011

1. Section 2 of the Deeds Registries Act, 1937 (Act No.47 of 1937) (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the heading of the following heading:

"Appointment of [chief] registrar, deputy registrar and assistant registrar of deeds";

(b) by the substitution for subsection (1) of the following subsection:

"(1) [Subject to the laws governing the public service, there shall be appointed by the Minister] The Minister shall appoint, in terms of the Public Service Act, 1994 (Proclamation 103 of 1994)—

[(a) a chief registrar of deeds, who shall as such be the chairman and executive officer of the deeds registries regulations board mentioned in section *nine* and who shall, subject to the directions of the Minister, exercise such supervision over all the deeds registries as may be necessary in order to bring about uniformity in their practice and procedure;]

- (b) in respect of each registry, a registrar of deeds, who shall be in charge of the deeds registry in respect of which he or she has been appointed;
 - (c) for a deeds registry[, **if necessary**], one or more deputy registrars of deeds [**or**] and one or more assistant registrars of deeds[, **or one or more deputy registrars of deeds and one or more assistant registrars of deeds**], who shall respectively have the power, subject to the regulations, to perform any act which may lawfully be done under this Act or any other law by a registrar[.];
 - (d) for the office of the chief registrar of deeds [**, if necessary**], one or more registrars of deeds, one or more deputy registrars of deeds, and one or more assistant registrars of deeds.";
- (c) by the substitution for subsection (1A) of the following subsection:
- "(1A) Whenever **[the chief registrar of deeds or]** any registrar, deputy registrar or assistant registrar of deeds, because of absence or for any other reason, is unable to carry out the functions of that office, or whenever such office becomes vacant, the Minister may authorize any officer in a deeds registry or in the office of the chief registrar of deeds, to act in the place of such **[chief registrar,]** registrar, deputy registrar or assistant registrar during the period of such absence or incapacity, or to act in the vacant office until the vacancy is filled, as the case may be.";
- (d) by the substitution for subsection (1C) of the following subsection:
- "(1C) The Minister may delegate any power conferred on him or her by this section, to the Director-General: Agriculture, Land

Reform and Rural Development **[and Land Reform]** or a Deputy Director-General in the Department of Agriculture, Land Reform and Rural Development **[and Land Reform]**.";

- (e) by the deletion of subsection (1D); and
- (f) by the substitution for subsections (2) and (3) of the following subsections, respectively:

"(2) (a) No person shall be appointed as **[chief registrar,]** registrar[,] of deeds or deputy registrar of deeds **[or assistant registrar of deeds]** after the commencement of section 2 of the Deeds Registries Amendment Act, 1984 (Act No. 62 of 1984), unless he or she has passed **[the final examination for the Diploma *luris*, or for any other diploma or]** a degree, recognized by the Minister for the Public Service and Administration[,].

(b) No person shall be appointed, after the commencement of section 2 of the Deeds Registries Amendment Act, 1984 (Act No. 62 of 1984), as assistant registrar of deeds, unless he or she has passed the final examination for the Diploma *luris*, or any other diploma or a degree, that is recognized by the Minister for the Public Service and Administration to be equivalent thereto, and has proven appropriate expertise or the capacity to acquire, within a reasonable time, the ability required to perform the functions of that office, regard being had to the time available and the nature and extent of those functions and the responsibilities of that office.

(3) Any person holding, at the commencement of section 1 of the Deeds Registries Amendment Act, **[1984] 2020[—]**.

- [(a) the office of chief registrar of deeds, and who on a date prior to such commencement ceased also to hold the office of registrar of deeds, shall as from that date be deemed; and]**
- [(b)]** the office of registrar or assistant registrar or deputy registrar of deeds, shall be deemed, as from the date of such commencement, to have been appointed under this section as **[chief registrar of deeds, or as]** registrar **[or]**, or assistant registrar or deputy registrar of deeds, as the case may be."

Insertion of sections 2A, 2B and 2C in Act 47 of 1937

2. The following sections are hereby inserted in the principal Act after section 2:

"Appointment of chief registrar of deeds

2A. (1) The Minister shall, in accordance with the Public Service Act, 1994 (Proclamation 103 of 1994), appoint a person who is holding, or who previously held, the position of a registrar of deeds, to be called the chief registrar of deeds.

(2) The chief registrar of deeds shall, subject to the directions of the Minister, exercise the powers and perform the duties conferred upon, or assigned to, the chief registrar of deeds by this Act or any other law.

(3) Whenever the chief registrar of deeds, because of absence or for any other reason, is unable to carry out the functions of that

office, or whenever such office becomes vacant, the Minister may authorise any registrar contemplated in sections 2(1)(b) and (d), to act in the place of such chief registrar of deeds during the period of such absence or incapacity, or to act in the vacant office until the vacancy is filled, as the case may be.

(4) The Minister may delegate any power conferred on him or her by this section, to the Director-General: Agriculture, Land Reform and Rural Development.

(5) The provisions of section 2(2) apply with the necessary changes to the appointment of a chief registrar of deeds.

(6) Any person holding, at the commencement of section 2 of the Deeds Registries Amendment Act, 2022, the office of chief registrar of deeds, and who, on a date prior to such commencement ceased also to hold the office of registrar of deeds, shall as from that date, be deemed to have been appointed under this section as chief registrar of deeds.

Responsibilities of chief registrar of deeds

2B. (1) The chief registrar of deeds shall lead the—

(a) management of Deeds Registration Corporate Support Services;

(b) management of the Deeds Registration Information Communication Technology Services;

(c) management of the Deeds Registration Legislation, Litigation and Training Services;

(d) coordination of service delivery by all deeds registries and Chief Directorates in the Branch Deeds Registration; and

- (e) audit and risk management regarding all deeds registries and Chief Directorates in the Branch Deeds Registration and report findings to the Director-General.

Duties of chief registrar of deeds

2C. (1) The chief registrar of deeds shall, subject to the provisions of this Act or any other law—

(a) act as chairperson and executive officer of—

- (i) the deeds registries regulations board referred to in section 9; and
- (ii) the sectional titles regulations board referred to in section 54 of the Sectional Titles Act, 1986 (Act No. 95 of 1986);

(b) develop, establish and maintain the electronic deeds registration system, as contemplated in section 2 of the Electronic Deeds Registration Systems Act, and maintain the current deeds registration system until fully replaced by the electronic deeds registration system;

(c) exercise such supervision over all the deeds registries as may be necessary to bring about uniformity in their practice and procedure: Provided that the supervision includes the issuing of practice and procedure directives;

(d) provide opinions in respect of matters referred for a reviewing process;

(e) be accountable for the deeds registration system;

(f) be accountable for the deeds registration information; and

(g) be accountable for the storing of deeds and documents as contemplated in section 2(1) of the Electronic Deeds Registration Systems Act."

Amendment of section 3 of Act 47 of 1937, as amended by section 14 of Act 50 of 1956, section 2 of Act 43 of 1957, section 2 of Act 43 of 1962, section 2 of Act 87 of 1965, section 1 of Act 41 of 1977, section 1 of Act 92 of 1978, section 1 of Act 44 of 1980, section 3 of Act 27 of 1982, section 28 of Act 88 of 1984, section 2 of Act 14 of 1993, section 9 of Act 122 of 1993, section 68 of Act 67 of 1995, section 1 of Act 11 of 1996, section 110 of Act 28 of 2002; section 53 of Act 24 of 2003, section 46 of Act 11 of 2004, section 1 of Act 5 of 2006 and section 2 of Act 12 of 2010

3. Section 3 of the principal Act is hereby amended—

(a) by the insertion in subsection (1) after paragraph (c) of the following paragraphs:

"(c)bis record, in compliance with the requirements of any law, land tenure rights lawfully issued by Government or any other competent authority, and record the amendment and cancellation thereof;

(d)ter register, in compliance with the requirements of any law, the conversion of land tenure rights to another form of land tenure right, including ownership;"

(b) by the substitution in subsection (1) for paragraph (i) of the following paragraph:

"(i) register waivers of preference in respect of registered real rights in land, in favour of mortgage bonds and leases, whether registered or about to be registered;"; and

(c) by the substitution in subsection (1) for paragraph (u) of the following paragraph:

"(u) register powers of attorney whereby the agents named therein are authorized to act generally for the principals granting such powers, or to carry out a series of acts or transactions registrable in a deeds registry[, **and register copies of such powers registered in another deeds registry, which have been certified by the registrar thereof**], or which have been issued for the purpose of being acted upon in a deeds registry by a Master or registrar of the High Court of South Africa;"

Amendment of section 7 of Act 47 of 1937, as amended by section 4 of Act 43 of 1957, section 3 of Act 87 of 1965 and section 3 of Act 14 of 1993

4. Section 7 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Each registrar and the chief registrar of deeds shall, on conditions prescribed and upon payment of the prescribed fees, permit any person to inspect the public registers and other public records in his or her registry, other than the index to such registers or records, and in the case of the chief registrar of deeds, he or she may permit any person to inspect the registers on the deeds registration system, and permit any such person to make copies of those records or extracts from those registers and to obtain such other information concerning deeds or other documents registered or filed in the registry as prior to the commencement of this Act could, customarily, be made or obtained."

Amendment of section 9 of Act 47 of 1937, as amended by section 3 of Act 3 of 1972, section 17 of Act 71 of 1972, section 8 of Act 62 of 1973, section 9 of Act 57 of 1975, section 4 of Act 27 of 1982, section 4 of Act 14 of 1993 and section 3 of Act 12 of 2010

5. Section 9 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) There shall be established a deeds registries regulations board (in this section called "the board"), **[with power to make regulations upon the subjects mentioned in section 10]** which shall—

(a) make recommendations to the Minister concerning any matter specified in section 10 of this Act and section 5 of the Electronic Deeds Registration Systems Act, in regard to which the Minister may make regulations;

(b) keep the operation and implementation of this Act and the Electronic Deeds Registration Systems Act, and its regulations under regular review and make recommendations to the Minister in regard to any amendments or other action which may be advisable;

(c) serve as a consultative body as contemplated by section 2(2) of the Electronic Deeds Registration Systems Act; and

(d) advise the Minister on any matter referred to it by the Minister.";

(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"The board shall consist of the chief registrar of deeds as **[chairman]** chairperson and executive officer **[in terms of]** as contemplated in section **[2(1)(a)]** 2C(1)(a)(i), the Senior Financial Officer: Deeds Registration, the Chief Director Deeds Registration Information, Communication and Technology, and **[four]** seven other members appointed by the Minister, of whom—";

- (c) by the substitution in subsection (2) for paragraphs (b) and (c) of the following paragraphs, respectively:

"(b) one shall be an officer of the Department of Agriculture, Land Reform and Rural Development **[and Land Reform]; [and]**

(c) two shall be conveyancers nominated by the **[Executive Council of the Association of Law Societies of the Republic of South Africa]** South African Legal Practice Council established in terms of section 4 of the Legal Practice Act [.]";

- (d) by the addition in subsection (2) of the following paragraphs:

"(d) one shall be a conveyancer from the Office of the State Attorney;

(e) one shall be a Senior Financial Officer of the Department of National Treasury; and

(f) one shall be an officer in the employ of the Banking Association of South Africa.";

- (e) by the substitution in subsection (3) for paragraph (a) of the following paragraph:

"(a) A member of the board appointed by the Minister shall hold office for the period determined by the Minister, but the Minister may, if in his or her opinion there is good reason for doing so, terminate

the appointment of such a member at any time before the expiration of his or her period of office.";

- (f) by the substitution in subsection (3A) for paragraph (c) of the following paragraph:

"(c) The provisions of **[subsection]** subsections (3), (3B) and (3C) are, with the necessary changes, applicable to the appointment of an alternate member.";

- (g) by the insertion after subsection (3A) of the following subsections:

"(3B) If a member of the board dies or vacates his or her office before the expiration of his or her period of office, the Minister may, subject to subsection (2), appoint a person to fill the vacancy for the unexpired portion of the period for which such member was appointed.

(3C) A member of the board, excluding a member in the full-time service of the State, shall, while he or she is engaged in the business of the board, be paid such remuneration, travelling and subsistence allowances as the Minister, with the concurrence of the Minister of Finance, may determine."

- (h) by the substitution for subsections (4) and (5) of the following subsections, respectively:

"(4) (a) The board shall meet at the times and places determined by the **[chairman]** chairperson.

(b) The Minister may at any time direct the **[chairman]** chairperson of the board to convene a meeting of the board at a time and place specified by the Minister.

(5) In the absence of the **[chairman]** chairperson of the board, the member referred to in subsection (2)(a) shall act as **[chairman]** chairperson.";

(i) by the substitution in subsection (6) for paragraph (a) of the following subsection:

"(a) **[Three]** Subject to paragraph (c), five members of the board who have a vote on a specific matter, of whom one shall be a member appointed in terms of subsection (2)(c), shall form a quorum for a meeting of the board.";

(j) by the addition in subsection (6) of the following paragraph:

"(c) (i) The Senior Financial Officer: Deeds Registration and the member appointed in terms of subsection (2)(e) shall only have a vote in respect of financial aspects:

(ii) The members appointed in terms of subsections (2)(c) and (2)(f) shall not have a vote in respect of financial matters."; and

(k) by the substitution for subsections (8), (9) and (10) of the following subsections, respectively:

"(8) **[With the Minister's approval the]** The board may make **[regulations]** recommendations to the Minister concerning matters specified in section 10 also without holding a meeting, provided that any **[regulations]** recommendation so made have been agreed to by all the members of the board.

(9) **[No regulation]** Regulations made by the **[board]** Minister shall **[take effect unless it has been approved by the Minister]**

and has been] be published in the *Gazette* at least one month before the date specified in the relevant notice as the date of commencement thereof.

(10) The provisions of section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), shall apply *mutatis mutandis* with reference to regulations **[approved]** made by the Minister and published in the *Gazette* under subsection (9).".

Amendment of section 10 of Act 47 of 1937, as amended by section 5 of Act 43 of 1957, section 5 of Act 43 of 1962, section 4 of Act 87 of 1965, section 4 of Act 3 of 1972, section 2 of Act 92 of 1978, section 5 of Act 27 of 1982, section 3 of Act 62 of 1984, section 5 of Act 14 of 1993, section 3 of Act 170 of 1993, section 68 of Act 67 of 1995 and section 1 of Act 11 of 2000

6. Section 10 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"The **[board established under section *nine*]** Minister may, upon recommendation of the deeds registries regulations board, make regulations prescribing—";

(b) by the insertion in subsection (1) after paragraph (q) of the following paragraph:

"(q)bis the form of applications, consents, certificates, registers and other documents which shall be used in connection with the recordal of land tenure rights lawfully issued in terms of the provisions of any law;"

- (c) by the substitution in subsection (1) for the fullstop at the end of paragraph (s) of a semi-colon; and
- (d) by the addition of the following paragraph:

"(t) the manner and form in which personal information relating to race, gender, citizenship and nationality of land owners in South Africa may be collected for statistical and land audit purposes only, and only for capturing such information into a register for official use by any department of state or administration in the national or provincial sphere of Government."

Amendment of section 18 of Act 47 of 1937, as amended by section 4 of Act 93 of 1998, section 6 of Act 3 of 1972, section 8 of Act 27 of 1982 and section 10 of Act 14 of 1993

7. Section 18 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) If any piece of unalienated State land has been surveyed and is represented on a diagram, the registrar concerned shall, upon written application by the Minister of Public Works or an officer of the State authorized by him or her, accompanied by the diagram of the land **[in duplicate]**, enter particulars of the land in the appropriate registers and execute in the prescribed form and in accordance with the diagram, a certificate of registered State title thereof prepared by a conveyancer."

Amendment of section 34 of Act 47 of 1937, as amended by section 14 of Act 87 of 1965 and section 5 of Act 12 of 2010

8. Section 34 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Any person who is the joint owner of a piece of land the whole of or shares in which is or are held by such person and others under one title deed, may, subject to the provisions of section *thirty-seven*, obtain a certificate of registered title of his or her undivided share in such land, and no transfer of a fraction only of his or her undivided share or hypothecation or lease of the whole or any fraction of his or her undivided share in the land or real right thereover, shall be registered in a deeds registry unless a certificate of registered title of such undivided share is produced to the registrar: Provided that all the joint owners so holding under one title deed may together, transfer an undivided share in the land or a fraction of the share held under such deed or hypothecate or effect the registration of a lease of the whole of such land or share or register a real right thereover without the production of such a certificate: Provided further that such a certificate shall not be necessary where a joint owner disposes of the whole of his or her share by deeds of transfer to be registered simultaneously."

Amendment of section 62 of Act 47 of 1937, as amended by section 2 of Act 15 of 1953, section 29 of Act 43 of 1957, section 25 of Act 43 of 1962 and section 18 of Act 14 of 1993

9. Section 62 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

"(5) A notarial bond which is required to be registered in more than one deeds registry shall be registered in the first registry within the period prescribed by subsection (1) of section *sixty-one*, in the second registry within an additional period of **[one month]** four months from the date of its registration in the first registry and in each successive registry within a further additional period of **[one month]** four months or within such extended period as the court may on application allow".

Substitution of section 99 of Act 47 of 1937

10. The following section is hereby substituted for section 99 of the principal Act:

"Exemption from liability for acts or omissions in deeds registry

99. No act or omission of any registrar or of any officer employed in a deeds registry shall render the Government or such registrar or officer liable for damage sustained by any person in consequence of such act or omission: Provided that if such act or omission is *mala fide* or if such registrar or officer has not exercised reasonable care and diligence in carrying out his or her duties in connection with such act or omission, the Government shall be liable for the damage aforesaid: Provided further that the registrar or officer guilty of such act or omission shall be liable to make good any loss or damage resulting therefrom to the Government if such act or omission was *mala fide*: Provided further that if such act or omission was *mala fide*, such registrar or officer and every person that was part of a collusion, is guilty of an offence and liable on conviction to a fine or to imprisonment or to both such fine and imprisonment."

Insertion of section 99A in Act 47 of 1937

11. The following section is hereby inserted in the principal Act after section 99:

"Unauthorised execution or attestation of deed

99A. Any person who prepares a deed or document or who executes or attests a deed and who is not authorized in terms of this Act or any other Act

to perform such functions, is guilty of an offence and liable on conviction to a fine or to imprisonment or to both such fine and imprisonment."

Amendment of section 102 of Act 47 of 1937, as amended by section 12 of Act 3 of 1972, section 22 of Act 27 of 1982, section 9 of Act 62 of 1984, section 4 of Act 75 of 1987, section 7 of Act 3 of 1988, section 6 of Act 24 of 1989, section 32 of Act 113 of 1991, section 22 of Act 14 of 1993, section 74 of Act 120 of 1993, section 68 of Act 67 of 1995, section 9 of Act 11 of 1996, section 10 of Act 11 of 1996, Proclamation R9 of 31 January 1997, section 10 of Act 93 of 1998, section 2 of Act 9 of 2003, section 53 of Act 24 of 2003, section 46 of Act 11 of 2004, section 6 of Act 12 of 2010 and section 7 of Act 34 of 2013

12. Section 102 of the principal Act is hereby amended—

- (a) by the insertion before the definition of "conveyancer" of the following definition:

" 'attorney' means, in relation to a document, an attorney as defined in the Legal Practice Act and includes in respect of transactions with State Land, an attorney as defined in the Legal Practice Act in the employ of the Department of Agriculture, Land Reform and Rural Development;"

- (b) by the substitution for the definition of "conveyancer" of the following definition:

" 'conveyancer' means, in respect of any deeds registry, a [person] conveyancer as defined in the Legal Practice Act, and practicing as such in the Republic, and includes a person admitted as an attorney in terms of the relevant Transkeian legislation and physically practicing as such within the area of the former Republic of Transkei on or before the date

of commencement of Proclamation R9 of 1997 and further includes, in respect of transactions with State Land, a conveyancer as defined in the Legal Practice Act, in the employ of the Department of Agriculture, Land Reform and Rural Development;";

- (c) by the insertion after the definition of "diagram" of the following definition:

" **'Electronic Deeds Registration Systems Act'** means the Electronic Deeds Registration Systems Act, 2019 (Act No. 19 of 2019);";

- (d) by the insertion after the definition of 'land' of the following definitions:

" **'land tenure right'** means a land tenure right created or confirmed by legislation;

'Legal Practice Act' means the Legal Practice Act, 2014 (Act No. 28 of 2014);";

- (e) by the substitution for the definition of 'Minister' the following definition:

" **'Minister'** means the Minister of Agriculture, Land Reform and Rural Development **[and Land Reform];**

- (f) by the substitution for the definition of 'notary public' the following definition:

" **'notary public'** means, in relation to any deed or other document creating or conveying real rights **[of]** over land, a [person] notary as defined in the Legal Practice Act, and practising as such in the Republic[;], and includes regarding creating or conveying real rights over State Land, a notary, as defined in the Legal Practice Act in the employ of the Department of Agriculture, Land Reform and Rural Development, and in relation to any document executed outside the Republic, a person practising as such in the place where the document is executed;" and

(g) by the insertion after the definition of 'real right' of the following definition:

" **'recorded'** means recorded in a deeds registry;".

Amendment of Act 19 of 2019

13. The Electronic Deeds Registration Systems Act is hereby amended to the extent set out in the Schedule.

Short title and commencement

14. (1) This Act is called the Deeds Registries Amendment Act, 2022.

(2) Sections 3(a), 6(b), 12(d), 12(g), and 13 come into operation on a date to be determined by the President by proclamation in the *Gazette*.

(3) The remaining provisions of this Act come into operation on the date of publication in the *Gazette*.

SCHEDULE

AMENDMENT OF ELECTRONIC DEEDS REGISTRATION SYSTEMS ACT, 2019

(ACT No. 19 OF 2019)

(Section 13)

No. and year of Act	Short title	Extent of repeal or amendment
Act 19 of 2019	Electronic Deeds Registration Systems Act, 2019	1. The amendment of section 1— (a) by the substitution for the definition of 'authorised user' of the following definition: " 'authorised user' means a user of the electronic deeds registration <u>and recordal</u> system contemplated in section 4, and "user" has a corresponding meaning;" (b) by the substitution for the definition of "deed or document" of the following definition: " 'deed or document', for the purpose of any act of registration, <u>recordal</u>, execution or filing in terms of the Deeds Registries Act and Sectional Titles Act or any other law, means a deed or document in the form of a data message as defined in the Electronic Communications and Transactions Act, generated, submitted, received or stored by electronic means in the electronic deeds registration <u>and recordal</u> system, and includes scanned images of a deed or document;" (c) by the substitution for the definition of 'electronic deeds registration system' of the following definition: " 'electronic deeds registration and recordal system' means the electronic deeds registration <u>and recordal system</u> contemplated in section 2;" (d) by the substitution for the definition of 'Minister' of the following definition: " 'Minister' means the Minister of Agriculture, Land Reform and Rural Development;" (e) by the insertion after the definition of 'prescribe' of the following definition: " 'recorded' means recorded in a deeds registry and <u>includes recordal</u>;" and (f) by the substitution for the definition of 'signature' of the following definition: " 'signature' in respect of any act performed in terms of the Deeds Registries Act and Sectional Titles Act by a conveyancer, notary public, statutory officer or Registrar in attesting his or her signature to a deed or document or a scanned image of a deed or document in respect of the registration or recordal thereof, means an advanced electronic signature as defined in section 1 of the Electronic Communications and Transactions Act;" 2. The substitution for section 2 of the following section:

		"Development, establishment and maintenance of deeds registration <u>and recordal</u> system" 2. (1) The Chief Registrar of Deeds must, subject to the Electronic Communications and Transactions Act, develop, establish and maintain the electronic deeds registration <u>and recordal</u> system using information and communications technologies for the preparation, lodgment, registration, <u>recordal</u>, execution and storing of deeds and documents. (2) In achieving the objectives contemplated in subsection (1), the Chief Registrar of Deeds may, after consultation with the Regulations Board referred to in section 9 of the Deeds Registries Act, issue directives for— (a) the functional requirements of the electronic deeds registration <u>and recordal</u> system; (b) the technical specifications for the electronic deeds registration <u>and recordal</u> system; (c) the specifications for the interface between the electronic deeds registration <u>and recordal</u> system and any party interfacing in the system which will be authorised to access the electronic deeds registration <u>and recordal</u> system; (d) the standards governing the information security of the electronic deeds registration <u>and recordal</u> system; (e) the operation of the electronic deeds registration <u>and recordal</u> system; (f) the processing of deeds and documents using the electronic deeds registration <u>and recordal</u> system; (g) the retention and subsequent production of deeds and documents, or any other electronic records, which may be pertinent to the registration <u>and recordal</u> of rights in the deeds registry or that may be required for the administrative or legal proceedings that must be complied with by users interacting with the electronic deeds registration and recordal system; and (h) any other matter specifically provided for in this Act."
		3. The substitution for section 3 of the following section: "Validity of deeds and documents" 3. Subject to section 14 of the Electronic Communications and Transactions Act, a deed or document generated, registered, recorded and executed electronically and any other registered, <u>recorded</u> or executed deed or document scanned or otherwise incorporated into the electronic deeds registration <u>and recordal</u> system by electronic means is for all purposes deemed to be the only original and valid record."
		4. The substitution for section 4 of the following section: "Authorised users" 4. Any user of the electronic deeds registration <u>and recordal</u> system authorised by the regulations must be registered in the manner and under the conditions as may be directed by the Chief Registrar of Deeds."
		5. The amendment of section 5— (a) by the substitution in subsection (1) for paragraph (c) of the following paragraph: "(c) the manner of identification of the person who prepares, executes, lodges, registers, <u>records</u> or

		stores any deed or document required or permitted to be prepared, executed, lodged, registered, recorded or stored in any deeds registry;" and (b) by the substitution for paragraphs (e) and (f) of subsection (1) of the following paragraphs, respectively: (e) the procedure and manner for accessing the electronic deeds registration <u>and recordal</u> system for information purposes only; (f) the authorisation of any user of the electronic deeds registration and recordal system, as contemplated in section 4; and".
		6. The substitution for section 6 of the following section— "Transitional provisions 6. (1) This Act does not affect the validity of any registrations <u>and recordals</u> effected prior to the coming into operation thereof. (2) The Registrar must continue with the registration, <u>recordal</u>, execution and filing of deeds and documents as prescribed by the Deeds Registries Act and the Sectional Titles Act, until the electronic deeds registration <u>and recordal</u> system, or related provisions or regulations are in place, where after the registration, <u>recordal</u>, execution and filing procedures in terms of the Deeds Registries Act and the Sectional Titles Act will be discontinued in respect of all deeds, documents or deeds registries. (3) A conveyancer, notary public and statutory officer must continue with the preparation and lodgement of deeds and documents as prescribed by the Deeds Registries Act and the Sectional Titles Act, until the electronic deeds registration <u>and recordal</u> system, or related provisions or regulations are in place, where after the preparation and lodgement procedures in terms of the Deeds Registries Act and the Sectional Titles Act will be discontinued in respect of all deeds, documents or deeds registries: Provided that any deed or document electronically executed or registered, shall be deemed to have been executed or registered in the presence of the Registrar by the owner or by a conveyancer authorised by power of attorney to act on behalf of the owner. (4) Notwithstanding subsections (2) and (3), the Chief Registrar of Deeds may issue a directive for the continuation of the preparation, lodgement, registration, <u>recording</u>, execution and filing of deeds and documents manually, as prescribed by the Deeds Registries Act and the Sectional Titles Act, whereupon a conveyancer, statutory officer and notary public may either use the said manual system or the electronic deeds registration and recordal system, until such period as may be determined by the Chief Registrar."
		7. The amendment of section 7— (a) by the substitution for subsection (1) of the following subsection: "(1) This Act is called the Electronic Deeds Registration <u>and Recordal</u> Systems Act, 2019, and comes into operation on a date to be fixed by the President by proclamation in the <i>Gazette</i>."; and (b) by the substitution for subsection (2) of the following subsection: "(2) The President may set different dates for the coming into operation of the different provisions of this Act or the different acts of registration <u>and recordal</u>

		under the Deeds Registries Act and Sectional Titles Act."
		8. Substitution for the long title of the Act of the following long title: "To provide for electronic deeds registration <u>and recordal</u>, having regard to legislation regulating electronic communication and transactions; and to provide for matters connected therewith."